

Office of the Attorney General
State of Tennessee

*1 Opinion No. 99-152
August 16, 1999

County School Board - telephone meeting

Honorable Marsha Blackburn
State Senator
War Memorial Building, Suite 305
Nashville, Tennessee 37243-0223

QUESTION

Whether a member of the Williamson County School Board is permitted to vote by speaker phone at a scheduled meeting when all requirements of the Open Meetings Act have been met?

OPINION

No.

ANALYSIS

In 1990, the Tennessee General Assembly enacted Tenn. Code Ann. § 8-44- 108, which permits participation in meetings by electronic or other means. However, by its terms, Tenn. Code Ann. § 8-44-108 applies only to boards, agencies and commissions of state government. See Tenn. Code Ann. § 8-44- 108(a)(1). Additionally, the legislative history indicates that while the legislation initially applied to local governments, it was redrafted to make it applicable only to state boards, agencies and commissions. John Morgan, then- Executive Assistant to the Comptroller, explained the purpose of the bill to the Senate State and Local Government Committee as follows:

We drafted the bill where it would be effective for local government. There was concern so we came back and made it applicable to state boards, commissions and agencies.... The bill is to make administratively sure that the spirit of the Sunshine Law is adhered to and that people use this means to conduct meetings. Also, that it give a more official sanction to use of electronic communication devices.

(Tape of Proceedings, Senate State and Local Government Committee, February 13, 1990) (remarks of Mr. Morgan).

Tenn. Code Ann. § 8-44-108 was amended during the 1999 legislative session, however, such amendment did not expand that statute to include local governments.

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See 1999 Tenn. Pub. Acts Ch. 490. Thus, Tenn. Code Ann. § 8-44- 108 clearly does not authorize telephone participation in meetings by members of a county school board.

It is axiomatic that a county, including a county school board, may exercise no power unless conferred, expressly, or by clear implication, by the Legislature. *Stone v. Town of Crossville*, 187 Tenn. 19, 212 S.W.2d 678 (1948). Tenn. Code Ann. § 49-2-202 addresses members and meetings of county school boards, and § 49-2-203 sets forth their duties and powers. There is no provision within these statutes that authorizes a county school board member to participate in board meetings by telephone or other electronic means. Moreover, while the state legislature sometimes grants powers to specific counties through the passage of private acts, we have not found a private act that would authorize members of the Williamson County Board of Education to participate in board meetings by telephone or other electronic means.

Accordingly, it is our opinion that a member of the Williamson County School Board would not be permitted to vote by speaker phone at a scheduled meeting of the Board. [FN1]

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[FN1]. To the extent that Op. Tenn. Atty. Gen. 82-033 (February 4, 1982) is inconsistent with this opinion, it is hereby withdrawn.

Tenn. Op. Atty. Gen. No. 99-152, 1999 WL 728597 (Tenn.A.G.)

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